

52-1-1. Official bonds to run to state, county, city or other agency.

When the law directs that a public officer shall give a bond without prescribing to whom it shall run it shall be made, if he is a state officer, to the state; if a county, precinct or district officer, to the county; if a municipal officer, to the city or town; and if a school officer, to the board of education.

No Change Since 1953

52-1-2. Bonds to state -- Approval and recording -- Filing of oaths.

(1) Unless otherwise provided in statute, if a state officer or an official of a state institution is required to give an official bond to the state, the state officer or executive director of the state institution shall:

- (a) ensure that the bond is provided as required by statute; and
- (b) keep the bond on file at the administrative office of the:
 - (i) state officer or the state institution; or
 - (ii) Division of Risk Management.

(2) A state official shall file the state official's oath of office with the Division of Archives and Records Service created under Section 63A-12-101.

Repealed and Re-enacted by Chapter 336, 2011 General Session

52-1-3. County, precinct and district officers -- Where filed.

Official oaths and bonds of county, precinct and district officers shall be filed with the county clerk, except those of the county clerk which shall be filed with the county treasurer.

No Change Since 1953

52-1-4. City officers -- Where filed.

Official oaths and bonds of city officers shall be filed with the city recorder, except those of the city recorder which shall be filed with the city treasurer.

No Change Since 1953

52-1-5. Town officers -- Where filed.

Official oaths and bonds of town officers shall be filed with the town clerk, except those of the town clerk which shall be filed with the town treasurer.

No Change Since 1953

52-1-6. School district officers -- Where filed.

Official oaths and bonds of school district officers shall be filed with the clerk of the board of education, except those of the clerk which shall be filed with the treasurer of the board of education.

No Change Since 1953

52-1-7. Bonds to be deemed security.

The official bond of a public officer shall be deemed a security to the state, county, city, town, school district or other municipal or public corporation, as the case may be, and also to all persons severally, for official delinquencies against which it is intended to provide.

No Change Since 1953

52-1-8. Official bonds -- Actions on -- Parties.

When a public officer by official misconduct or neglect of duty shall forfeit his official bond or render his sureties liable thereon, any person injured by such misconduct or neglect, or who is by law entitled to the benefit of the security, may maintain an action thereon in his own name against the officer and his sureties to recover the amount to which he may by reason thereof be entitled.

No Change Since 1953

52-1-9. Successive actions on official bonds.

A judgment in favor of a party for one delinquency does not preclude the same or another party from suing on the same security for another delinquency, but sureties can be made liable in the aggregate only to the extent of their undertaking.

No Change Since 1953

52-1-10. Duties imposed by subsequent laws covered by bond -- Informalities in bond not to affect validity.

The bonds of all civil officers shall cover duties required by laws passed subsequent to giving them. No bond shall be void for failure to comply with the law as to matters of form, but it shall be valid as to all matters contained therein, if it complies substantially with the law.

No Change Since 1953

52-1-11. Bonds to cover special penalties and liabilities.

Whenever, except in criminal prosecutions, any special penalty, forfeiture or liability is imposed upon any officer for nonperformance or malperformance of his official duties, the liability therefor attaches to the official bond of such officer.

No Change Since 1953

52-1-12. Cost of bonds -- How paid.

The cost of any official bond required to be furnished by any public treasurer shall be paid out of the funds in the respective treasuries.

No Change Since 1953

52-1-13. Sureties -- Approval -- Personal surety bond -- Requirements.

(1) In all cases where a bond is required of any public officer in this state, either a corporate surety bond or a personal surety bond may be given. The bonds shall be subject to approval as provided by law. A personal surety bond may not be approved except with two or more sureties.

(2) Each surety shall first make and file an affidavit declaring that the individual is a resident of the state of Utah and is worth the sum specified in the undertaking, over and above all of the individual's debts and liabilities and exclusive of property exempt from execution. The individual shall include in the affidavit a detailed statement of all of the individual's assets and liabilities.

(3) Any person who makes a material false statement with respect to Subsection (2) is guilty of a third degree felony.

(4) If there are more than two sureties, they may express in their affidavits that they are worth amounts less than that expressed in the bond if the whole amount of all sureties is equivalent to double the penalty of the bond.

(5) No premium on any surety bond with personal sureties may be paid from any public funds.

(6) The several boards, courts, or officers authorized by law to approve surety bonds may require sureties on personal surety bonds to justify annually. In the case of failure to justify, the boards or officers may require additional sureties or a new bond. In case of failure of any public officer to have the public officer's sureties justify when required or to furnish additional sureties when required, the board or officer charged with the duty of approving the bond of the officer shall declare the office vacant within 60 days after notice personally served upon the officer. At the expiration of the 60-day period, the office shall become vacant unless the sureties justify or additional qualified sureties are furnished within the period.

Amended by Chapter 121, 2013 General Session

52-2-1. Time in which to qualify -- Failure -- Office declared vacant.

(1) When any person duly elected or appointed to any office of the state or any of its political subdivisions, fails to qualify for the office within 60 days after the date of the beginning of the term of office for which the person was elected or appointed, the office is vacant and shall be filled as provided by law.

(2) When a required bond of any officer of the state or of any of its political subdivisions is canceled, revoked, annulled or otherwise becomes void or of no effect, without another proper required bond being given so that continuance of the required bonded protection is afforded, the office of the officer is vacant and shall be filled as provided by law.

Amended by Chapter 336, 2011 General Session

52-3-1. Employment of relatives prohibited -- Exceptions.

(1) For purposes of this section:

(a) "Appointee" means an employee whose salary, wages, pay, or compensation is paid from public funds.

(b) "Chief administrative officer" means the person who has ultimate responsibility for the operation of the department or agency of the state or a political subdivision.

(c) "Public officer" means a person who holds a position that is compensated by public funds.

(d) "Relative" means a father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

(2) (a) No public officer may employ, appoint, or vote for or recommend the appointment of a relative in or to any position or employment, when the salary, wages, pay, or compensation of the appointee will be paid from public funds and the appointee will be directly supervised by a relative, except as follows:

(i) the appointee is eligible or qualified to be employed by a department or agency of the state or a political subdivision of the state as a result of his compliance with civil service laws or regulations, or merit system laws or regulations;

(ii) the appointee will be compensated from funds designated for vocational training;

(iii) the appointee will be employed for a period of 12 weeks or less;

(iv) the appointee is a volunteer as defined by the employing entity;

(v) the appointee is the only person available, qualified, or eligible for the position; or

(vi) the chief administrative officer determines that the public officer is the only person available or best qualified to perform supervisory functions for the appointee.

(b) No public officer may directly supervise an appointee who is a relative when the salary, wages, pay, or compensation of the relative will be paid from public funds, except as follows:

(i) the relative was appointed or employed before the public officer assumed his position, if the relative's appointment did not violate the provisions of this chapter in effect at the time of his appointment;

(ii) the appointee is eligible or qualified to be employed by a department or agency of the state or a political subdivision of the state as a result of his compliance with civil service laws or regulations, or merit system laws or regulations;

(iii) the appointee will be compensated from funds designated for vocational training;

(iv) the appointee will be employed for a period of 12 weeks or less;

(v) the appointee is a volunteer as defined by the employing entity;

(vi) the appointee is the only person available, qualified, or eligible for the position; or

(vii) the chief administrative officer determines that the public officer is the only person available or best qualified to perform supervisory functions for the appointee.

(c) When a public officer supervises a relative under Subsection (2)(b):

(i) the public officer shall make a complete written disclosure of the relationship to the chief administrative officer of the agency or institution; and

(ii) the public officer who exercises authority over a relative may not evaluate the relative's job performance or recommend salary increases for the relative.

(3) No appointee may accept or retain employment if he is paid from public

funds, and he is under the direct supervision of a relative, except as follows:

(a) the relative was appointed or employed before the public officer assumed his position, if the relative's appointment did not violate the provisions of this chapter in effect at the time of his appointment;

(b) the appointee was or is eligible or qualified to be employed by a department or agency of the state or a political subdivision of the state as a result of his compliance with civil service laws or regulations, or merit system laws or regulations;

(c) the appointee is the only person available, qualified, or eligible for the position;

(d) the appointee is compensated from funds designated for vocational training;

(e) the appointee is employed for a period of 12 weeks or less;

(f) the appointee is a volunteer as defined by the employing entity; or

(g) the chief administrative officer has determined that the appointee's relative is the only person available or qualified to supervise the appointee.

Amended by Chapter 324, 2010 General Session

52-3-2. Each day of violation a separate offense.

Each day any such person, father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousins, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law or daughter-in-law, is retained in office by any of said officials shall be regarded as a separate offense.

No Change Since 1953

52-3-3. Penalty.

Any person violating any of the provisions of this chapter is guilty of a misdemeanor.

Amended by Chapter 79, 1953 General Session

52-3-4. Exceptions in towns and rural areas.

(1) In a town, as defined in Section 10-1-104, this chapter shall not apply to the employment of uncles, aunts, nephews, nieces, or cousins.

(2) This chapter shall not apply to the employment of a relative if:

(a) fewer than 3,000 people live within 40 miles of the primary place of employment, measured over all weather public roads;

(b) the job opening has had reasonable public notice; and

(c) the relative is the best qualified candidate for the position.

(3) In any proceeding challenging the hiring of a relative under the exception in Subsection (2), the employer has the burden of establishing each of the criteria provided in Subsections (2)(a) through (c).

Amended by Chapter 13, 1998 General Session

52-4-101. Title.

This chapter is known as the "Open and Public Meetings Act."

Enacted by Chapter 14, 2006 General Session

52-4-102. Declaration of public policy.

(1) The Legislature finds and declares that the state, its agencies and political subdivisions, exist to aid in the conduct of the people's business.

(2) It is the intent of the Legislature that the state, its agencies, and its political subdivisions:

- (a) take their actions openly; and
- (b) conduct their deliberations openly.

Renumbered and Amended by Chapter 14, 2006 General Session

52-4-103. Definitions.

As used in this chapter:

(1) "Anchor location" means the physical location from which:

- (a) an electronic meeting originates; or
- (b) the participants are connected.

(2) "Capitol hill complex" means the grounds and buildings within the area bounded by 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt Lake City.

(3) "Convening" means the calling together of a public body by a person authorized to do so for the express purpose of discussing or acting upon a subject over which that public body has jurisdiction or advisory power.

(4) "Electronic meeting" means a public meeting convened or conducted by means of a conference using electronic communications.

(5) "Electronic message" means a communication transmitted electronically, including:

- (a) electronic mail;
- (b) instant messaging;
- (c) electronic chat;
- (d) text messaging as defined in Section 76-4-401; or
- (e) any other method that conveys a message or facilitates communication electronically.

(6) (a) "Meeting" means the convening of a public body or a specified body, with a quorum present, including a workshop or an executive session, whether in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the public body or specific body has jurisdiction or advisory power.

(b) "Meeting" does not mean:

- (i) a chance gathering or social gathering; or
- (ii) a convening of the State Tax Commission to consider a confidential tax matter in accordance with Section 59-1-405.

(c) "Meeting" does not mean the convening of a public body that has both legislative and executive responsibilities if:

(i) no public funds are appropriated for expenditure during the time the public body is convened; and

(ii) the public body is convened solely for the discussion or implementation of administrative or operational matters:

(A) for which no formal action by the public body is required; or

(B) that would not come before the public body for discussion or action.

(7) "Monitor" means to hear or observe, live, by audio or video equipment, all of the public statements of each member of the public body who is participating in a meeting.

(8) "Participate" means the ability to communicate with all of the members of a public body, either verbally or electronically, so that each member of the public body can hear or observe the communication.

(9) (a) "Public body" means any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:

(i) is created by the Utah Constitution, statute, rule, ordinance, or resolution;

(ii) consists of two or more persons;

(iii) expends, disburses, or is supported in whole or in part by tax revenue; and

(iv) is vested with the authority to make decisions regarding the public's business.

(b) "Public body" does not include a:

(i) political party, political group, or political caucus;

(ii) conference committee, rules committee, or sifting committee of the Legislature; or

(iii) school community council established under Section 53A-1a-108.

(10) "Public statement" means a statement made in the ordinary course of business of the public body with the intent that all other members of the public body receive it.

(11) (a) "Quorum" means a simple majority of the membership of a public body, unless otherwise defined by applicable law.

(b) "Quorum" does not include a meeting of two elected officials by themselves when no action, either formal or informal, is taken on a subject over which these elected officials have advisory power.

(12) "Recording" means an audio, or an audio and video, record of the proceedings of a meeting that can be used to review the proceedings of the meeting.

(13) "Specified body" means an administrative, advisory, executive, or legislative body that:

(a) is not a public body;

(b) consists of three or more members; and

(c) includes at least one member who is:

(i) a legislator; and

(ii) officially appointed to the body by the President of the Senate, Speaker of the House of Representatives, or governor.

(14) "Transmit" means to send, convey, or communicate an electronic message by electronic means.

Amended by Chapter 434, 2014 General Session

52-4-104. Training.

The presiding officer of the public body shall ensure that the members of the public body are provided with annual training on the requirements of this chapter.

Enacted by Chapter 263, 2006 General Session

52-4-201. Meetings open to the public -- Exceptions.

(1) A meeting is open to the public unless closed under Sections 52-4-204, 52-4-205, and 52-4-206.

(2) (a) A meeting that is open to the public includes a workshop or an executive session of a public body in which a quorum is present, unless closed in accordance with this chapter.

(b) A workshop or an executive session of a public body in which a quorum is present that is held on the same day as a regularly scheduled public meeting of the public body may only be held at the location where the public body is holding the regularly scheduled public meeting unless:

(i) the workshop or executive session is held at the location where the public body holds its regularly scheduled public meetings but, for that day, the regularly scheduled public meeting is being held at different location;

(ii) any of the meetings held on the same day is a site visit or a traveling tour and, in accordance with this chapter, public notice is given;

(iii) the workshop or executive session is an electronic meeting conducted according to the requirements of Section 52-4-207; or

(iv) it is not practicable to conduct the workshop or executive session at the regular location of the public body's open meetings due to an emergency or extraordinary circumstances.

Renumbered and Amended by Chapter 14, 2006 General Session
Amended by Chapter 263, 2006 General Session

52-4-202. Public notice of meetings -- Emergency meetings.

(1) (a) (i) A public body shall give not less than 24 hours' public notice of each meeting.

(ii) A specified body shall give not less than 24 hours' public notice of each meeting that the specified body holds on the capitol hill complex.

(b) The public notice required under Subsection (1)(a) shall include the meeting:

(i) agenda;

(ii) date;

(iii) time; and

(iv) place.

(2) (a) In addition to the requirements under Subsection (1), a public body which holds regular meetings that are scheduled in advance over the course of a year shall give public notice at least once each year of its annual meeting schedule as provided in this section.

(b) The public notice under Subsection (2)(a) shall specify the date, time, and place of the scheduled meetings.

(3) (a) A public body or specified body satisfies a requirement for public notice by:

(i) posting written notice:

(A) at the principal office of the public body or specified body, or if no principal office exists, at the building where the meeting is to be held; and

(B) beginning October 1, 2008 and except as provided in Subsection (3)(b), on the Utah Public Notice Website created under Section 63F-1-701; and

(ii) providing notice to:

(A) at least one newspaper of general circulation within the geographic jurisdiction of the public body; or

(B) a local media correspondent.

(b) A public body of a municipality under Title 10, Utah Municipal Code, a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act, is encouraged, but not required, to post written notice on the Utah Public Notice Website, if the municipality or district has a current annual budget of less than \$1 million.

(c) A public body or specified body is in compliance with the provisions of Subsection (3)(a)(ii) by providing notice to a newspaper or local media correspondent under the provisions of Subsection 63F-1-701(4)(d).

(4) A public body and a specified body are encouraged to develop and use additional electronic means to provide notice of their meetings under Subsection (3).

(5) (a) The notice requirement of Subsection (1) may be disregarded if:

(i) because of unforeseen circumstances it is necessary for a public body or specified body to hold an emergency meeting to consider matters of an emergency or urgent nature; and

(ii) the public body or specified body gives the best notice practicable of:

(A) the time and place of the emergency meeting; and

(B) the topics to be considered at the emergency meeting.

(b) An emergency meeting of a public body may not be held unless:

(i) an attempt has been made to notify all the members of the public body; and

(ii) a majority of the members of the public body approve the meeting.

(6) (a) A public notice that is required to include an agenda under Subsection (1) shall provide reasonable specificity to notify the public as to the topics to be considered at the meeting. Each topic shall be listed under an agenda item on the meeting agenda.

(b) Subject to the provisions of Subsection (6)(c), and at the discretion of the presiding member of the public body, a topic raised by the public may be discussed during an open meeting, even if the topic raised by the public was not included in the agenda or advance public notice for the meeting.

(c) Except as provided in Subsection (5), relating to emergency meetings, a public body may not take final action on a topic in an open meeting unless the topic is:

(i) listed under an agenda item as required by Subsection (6)(a); and

(ii) included with the advance public notice required by this section.

Amended by Chapter 434, 2014 General Session

52-4-203. Written minutes of open meetings -- Public records -- Recording of meetings.

(1) Except as provided under Subsection (7), written minutes and a recording shall be kept of all open meetings.

(2) Written minutes of an open meeting shall include:

- (a) the date, time, and place of the meeting;
- (b) the names of members present and absent;
- (c) the substance of all matters proposed, discussed, or decided by the public body which may include a summary of comments made by members of the public body;
- (d) a record, by individual member, of each vote taken by the public body;
- (e) the name of each person who:
 - (i) is not a member of the public body; and
 - (ii) after being recognized by the presiding member of the public body, provided testimony or comments to the public body;
- (f) the substance, in brief, of the testimony or comments provided by the public under Subsection (2)(e); and
- (g) any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes or recording.

(3) A recording of an open meeting shall:

- (a) be a complete and unedited record of all open portions of the meeting from the commencement of the meeting through adjournment of the meeting; and
- (b) be properly labeled or identified with the date, time, and place of the meeting.

(4) (a) As used in this Subsection (4):

- (i) "Approved minutes" means written minutes:
 - (A) of an open meeting; and
 - (B) that have been approved by the public body that held the open meeting.
- (ii) "Electronic information" means information presented or provided in an electronic format.
- (iii) "Pending minutes" means written minutes:
 - (A) of an open meeting; and
 - (B) that have been prepared in draft form and are subject to change before being approved by the public body that held the open meeting.
- (iv) "Specified local public body" means a legislative body of a county, city, or town.
- (v) "State public body" means a public body that is an administrative, advisory, executive, or legislative body of the state.
- (vi) "Website" means the Utah Public Notice Website created under Section 63F-1-701.

(b) Pending minutes, approved minutes, and a recording of a public meeting are public records under Title 63G, Chapter 2, Government Records Access and Management Act.

(c) Pending minutes shall contain a clear indication that the public body has not yet approved the minutes or that the minutes are subject to change until the public body approves them.

(d) A state public body and a specified local public body shall require an

individual who, at an open meeting of the public body, publicly presents or provides electronic information, relating to an item on the public body's meeting agenda, to provide the public body, at the time of the meeting, an electronic or hard copy of the electronic information for inclusion in the public record.

(e) A state public body shall:

(i) make pending minutes available to the public within 30 days after holding the open meeting that is the subject of the pending minutes;

(ii) within three business days after approving written minutes of an open meeting, post to the website and make available to the public at the public body's primary office a copy of the approved minutes and any public materials distributed at the meeting; and

(iii) within three business days after holding an open meeting, post on the website an audio recording of the open meeting, or a link to the recording.

(f) (i) A specified local public body shall:

(A) make pending minutes available to the public within 30 days after holding the open meeting that is the subject of the pending minutes;

(B) subject to Subsection (4)(f)(ii), within three business days after approving written minutes of an open meeting, post to the website and make available to the public at the public body's primary office a copy of the approved minutes and any public materials distributed at the meeting; and

(C) within three business days after holding an open meeting, make an audio recording of the open meeting available to the public for listening.

(ii) A specified local public body of a city of the fifth class or town is encouraged to comply with Subsection (4)(f)(i)(B) but is not required to comply until January 1, 2015.

(g) A public body that is not a state public body or a specified local public body shall:

(i) make pending minutes available to the public within a reasonable time after holding the open meeting that is the subject of the pending minutes;

(ii) within three business days after approving written minutes, make the approved minutes available to the public; and

(iii) within three business days after holding an open meeting, make an audio recording of the open meeting available to the public for listening.

(h) A public body shall establish and implement procedures for the public body's approval of the written minutes of each meeting.

(i) Approved minutes of an open meeting are the official record of the meeting.

(5) All or any part of an open meeting may be independently recorded by any person in attendance if the recording does not interfere with the conduct of the meeting.

(6) The written minutes or recording of an open meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.

(7) Notwithstanding Subsection (1), a recording is not required to be kept of:

(a) an open meeting that is a site visit or a traveling tour, if no vote or action is taken by the public body; or

(b) an open meeting of a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or special service district under Title 17D, Chapter

1, Special Service District Act, if the district's annual budgeted expenditures for all funds, excluding capital expenditures and debt service, are \$50,000 or less.

Amended by Chapter 83, 2014 General Session

**52-4-204. Closed meeting held upon vote of members -- Business --
Reasons for meeting recorded.**

(1) A closed meeting may be held if:

(a) (i) a quorum is present;

(ii) the meeting is an open meeting for which notice has been given under Section 52-4-202; and

(iii) (A) two-thirds of the members of the public body present at the open meeting vote to approve closing the meeting;

(B) for a meeting that is required to be closed under Section 52-4-205, if a majority of the members of the public body present at an open meeting vote to approve closing the meeting;

(C) for an ethics committee of the Legislature that is conducting an open meeting for the purpose of reviewing an ethics complaint, a majority of the members present vote to approve closing the meeting for the purpose of seeking or obtaining legal advice on legal, evidentiary, or procedural matters, or for conducting deliberations to reach a decision on the complaint; or

(D) for the Political Subdivisions Ethics Review Commission established in Section 11-49-201 that is conducting an open meeting for the purpose of reviewing an ethics complaint in accordance with Section 11-49-701, a majority of the members present vote to approve closing the meeting for the purpose of seeking or obtaining legal advice on legal, evidentiary, or procedural matters, or for conducting deliberations to reach a decision on the complaint; or

(b) (i) for the Independent Legislative Ethics Commission, the closed meeting is convened for the purpose of conducting business relating to the receipt or review of an ethics complaint, provided that public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to the receipt or review of ethics complaints";

(ii) for the Political Subdivisions Ethics Review Commission established in Section 11-49-201, the closed meeting is convened for the purpose of conducting business relating to the preliminary review of an ethics complaint in accordance with Section 11-49-602, provided that public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to the review of ethics complaints"; or

(iii) for the Independent Executive Branch Ethics Commission created in Section 63A-14-202, the closed meeting is convened for the purpose of conducting business relating to an ethics complaint, provided that public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to an ethics complaint."

(2) A closed meeting is not allowed unless each matter discussed in the closed

meeting is permitted under Section 52-4-205.

(3) An ordinance, resolution, rule, regulation, contract, or appointment may not be approved at a closed meeting.

(4) The following information shall be publicly announced and entered on the minutes of the open meeting at which the closed meeting was approved:

- (a) the reason or reasons for holding the closed meeting;
- (b) the location where the closed meeting will be held; and
- (c) the vote by name, of each member of the public body, either for or against the motion to hold the closed meeting.

(5) Except as provided in Subsection 52-4-205(2), nothing in this chapter shall be construed to require any meeting to be closed to the public.

Amended by Chapter 426, 2013 General Session

52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed meetings.

(1) A closed meeting described under Section 52-4-204 may only be held for:

- (a) except as provided in Subsection (3), discussion of the character, professional competence, or physical or mental health of an individual;
- (b) strategy sessions to discuss collective bargaining;
- (c) strategy sessions to discuss pending or reasonably imminent litigation;
- (d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, if public discussion of the transaction would:

(i) disclose the appraisal or estimated value of the property under consideration;
or

(ii) prevent the public body from completing the transaction on the best possible terms;

(e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares, if:

(i) public discussion of the transaction would:

(A) disclose the appraisal or estimated value of the property under consideration; or

(B) prevent the public body from completing the transaction on the best possible terms;

(ii) the public body previously gave public notice that the property would be offered for sale; and

(iii) the terms of the sale are publicly disclosed before the public body approves the sale;

(f) discussion regarding deployment of security personnel, devices, or systems;

(g) investigative proceedings regarding allegations of criminal misconduct;

(h) as relates to the Independent Legislative Ethics Commission, conducting business relating to the receipt or review of ethics complaints;

(i) as relates to an ethics committee of the Legislature, a purpose permitted under Subsection 52-4-204(1)(a)(iii)(C);

(j) as relates to the Independent Executive Branch Ethics Commission created

in Section 63A-14-202, conducting business relating to an ethics complaint;

(k) as relates to a county legislative body, discussing commercial information as defined in Section 59-1-404;

(l) as relates to the Utah Higher Education Assistance Authority and its appointed board of directors, discussing fiduciary or commercial information as defined in Section 53B-12-102;

(m) deliberations, not including any information gathering activities, of a public body acting in the capacity of:

(i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code, during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;

(ii) a protest officer, defined in Section 63G-6a-103, during the process of making a decision on a protest under Title 63G, Chapter 6a, Part 16, Controversies and Protests; or

(iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17, Procurement Appeals Board;

(n) the purpose of considering information that is designated as a trade secret, as defined in Section 13-24-2, if the public body's consideration of the information is necessary in order to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

(o) the purpose of discussing information provided to the public body during the procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of the meeting:

(i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be disclosed to a member of the public or to a participant in the procurement process; and

(ii) the public body needs to review or discuss the information in order to properly fulfill its role and responsibilities in the procurement process; or

(p) a purpose for which a meeting is required to be closed under Subsection (2).

(2) The following meetings shall be closed:

(a) a meeting of the Health and Human Services Interim Committee to review a fatality review report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4);

(b) a meeting of the Child Welfare Legislative Oversight Panel to:

(i) review a fatality review report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4); or

(ii) review and discuss an individual case, as described in Subsection 62A-4a-207(5); and

(c) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose of advising the Natural Resource Conservation Service of the United States Department of Agriculture on a farm improvement project if the discussed information is protected information under federal law.

(3) In a closed meeting, a public body may not:

(a) interview a person applying to fill an elected position;

(b) discuss filling a midterm vacancy or temporary absence governed by Title

20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office; or

(c) discuss the character, professional competence, or physical or mental health of the person whose name was submitted for consideration to fill a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office.

Amended by Chapter 196, 2014 General Session

52-4-206. Record of closed meetings.

(1) Except as provided under Subsection (6), if a public body closes a meeting under Subsection 52-4-205(1), the public body:

(a) shall make a recording of the closed portion of the meeting; and
(b) may keep detailed written minutes that disclose the content of the closed portion of the meeting.

(2) A recording of a closed meeting shall be complete and unedited from the commencement of the closed meeting through adjournment of the closed meeting.

(3) The recording and any minutes of a closed meeting shall include:

(a) the date, time, and place of the meeting;
(b) the names of members present and absent; and
(c) the names of all others present except where the disclosure would infringe on the confidentiality necessary to fulfill the original purpose of closing the meeting.

(4) Minutes or recordings of a closed meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.

(5) Both a recording and written minutes of closed meetings are protected records under Title 63G, Chapter 2, Government Records Access and Management Act, except that the records may be disclosed under a court order only as provided under Section 52-4-304.

(6) If a public body closes a meeting exclusively for the purposes described under Subsection 52-4-205(1)(a), (1)(f), or (2):

(a) the person presiding shall sign a sworn statement affirming that the sole purpose for closing the meeting was to discuss the purposes described under Subsection 52-4-205(1)(a),(1)(f), or (2); and

(b) the provisions of Subsection (1) of this section do not apply.

Amended by Chapter 239, 2010 General Session

52-4-207. Electronic meetings -- Authorization -- Requirements.

(1) Except as otherwise provided for a charter school in Section 52-4-209, a public body may convene and conduct an electronic meeting in accordance with this section.

(2) (a) A public body may not hold an electronic meeting unless the public body has adopted a resolution, rule, or ordinance governing the use of electronic meetings.

(b) The resolution, rule, or ordinance may:

(i) prohibit or limit electronic meetings based on budget, public policy, or

logistical considerations;

(ii) require a quorum of the public body to:

(A) be present at a single anchor location for the meeting; and

(B) vote to approve establishment of an electronic meeting in order to include other members of the public body through an electronic connection;

(iii) require a request for an electronic meeting to be made by a member of a public body up to three days prior to the meeting to allow for arrangements to be made for the electronic meeting;

(iv) restrict the number of separate connections for members of the public body that are allowed for an electronic meeting based on available equipment capability; or

(v) establish other procedures, limitations, or conditions governing electronic meetings not in conflict with this section.

(3) A public body that convenes or conducts an electronic meeting shall:

(a) give public notice of the meeting:

(i) in accordance with Section 52-4-202; and

(ii) post written notice at the anchor location;

(b) in addition to giving public notice required by Subsection (3)(a), provide:

(i) notice of the electronic meeting to the members of the public body at least 24 hours before the meeting so that they may participate in and be counted as present for all purposes, including the determination that a quorum is present; and

(ii) a description of how the members will be connected to the electronic meeting;

(c) establish one or more anchor locations for the public meeting, at least one of which is in the building and political subdivision where the public body would normally meet if they were not holding an electronic meeting;

(d) provide space and facilities at the anchor location so that interested persons and the public may attend and monitor the open portions of the meeting; and

(e) if comments from the public will be accepted during the electronic meeting, provide space and facilities at the anchor location so that interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

(4) Compliance with the provisions of this section by a public body constitutes full and complete compliance by the public body with the corresponding provisions of Sections 52-4-201 and 52-4-202.

Amended by Chapter 31, 2011 General Session

52-4-208. Chance or social meetings.

(1) This chapter does not apply to any chance meeting or a social meeting.

(2) A chance meeting or social meeting may not be used to circumvent the provisions of this chapter.

Enacted by Chapter 14, 2006 General Session

52-4-209. Electronic meetings for charter school board.

(1) Notwithstanding the definitions provided in Section 52-4-103 for this chapter, as used in this section:

- (a) "Anchor location" means a physical location where:
 - (i) the charter school board would normally meet if the charter school board were not holding an electronic meeting; and
 - (ii) space, a facility, and technology are provided to the public to monitor and, if public comment is allowed, to participate in an electronic meeting during regular business hours.
- (b) "Charter school board" means the governing board of a school created under Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act.
- (c) "Meeting" means the convening of a charter school board:
 - (i) with a quorum who:
 - (A) monitors a website at least once during the electronic meeting; and
 - (B) casts a vote on a website, if a vote is taken; and
 - (ii) for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the charter school board has jurisdiction or advisory power.
- (d) "Monitor" means to:
 - (i) read all the content added to a website by the public or a charter school board member; and
 - (ii) view a vote cast by a charter school board member on a website.
- (e) "Participate" means to add content to a website.
- (2) (a) A charter school board may convene and conduct an electronic meeting in accordance with Section 52-4-207.
- (b) A charter school board may convene and conduct an electronic meeting in accordance with this section that is in writing on a website if:
 - (i) the chair verifies that a quorum monitors the website;
 - (ii) the content of the website is available to the public;
 - (iii) the chair controls the times in which a charter school board member or the public participates; and
 - (iv) the chair requires a person to identify himself or herself if the person:
 - (A) participates; or
 - (B) casts a vote as a charter school board member.
- (3) A charter school that conducts an electronic meeting under this section shall:
 - (a) give public notice of the electronic meeting:
 - (i) in accordance with Section 52-4-202; and
 - (ii) by posting written notice at the anchor location as required under Section 52-4-207;
 - (b) in addition to giving public notice required by Subsection (3)(a), provide:
 - (i) notice of the electronic meeting to the members of the charter school board at least 24 hours before the meeting so that they may participate in and be counted as present for all purposes, including the determination that a quorum is present;
 - (ii) a description of how the members and the public may be connected to the electronic meeting;
 - (iii) a start and end time for the meeting, which shall be no longer than 5 days; and
 - (iv) a start and end time for when a vote will be taken in an electronic meeting, which shall be no longer than four hours; and

- (c) provide an anchor location.
- (4) The chair shall:
 - (a) not allow anyone to participate from the time the notice described in Subsection (3)(b)(iv) is given until the end time for when a vote will be taken; and
 - (b) allow a charter school board member to change a vote until the end time for when a vote will be taken.
- (5) During the time in which a vote may be taken, a charter school board member may not communicate in any way with any person regarding an issue over which the charter school board has jurisdiction.
- (6) A charter school conducting an electronic meeting under this section may not close a meeting as otherwise allowed under this part.
- (7) (a) Written minutes shall be kept of an electronic meeting conducted as required in Section 52-4-203.
 - (b) (i) Notwithstanding Section 52-4-203, a recording is not required of an electronic meeting described in Subsection (2)(b).
 - (ii) All of the content of the website shall be kept for an electronic meeting conducted under this section.
 - (c) Written minutes are the official record of action taken at an electronic meeting as required in Section 52-4-203.
- (8) (a) A charter school board shall ensure that the website used to conduct an electronic meeting:
 - (i) is secure; and
 - (ii) provides with reasonably certainty the identity of a charter school board member who logs on, adds content, or casts a vote on the website.
- (b) A person is guilty of a class B misdemeanor if the person falsely identifies himself or herself as required by Subsection (2)(b)(iv).
- (9) Compliance with the provisions of this section by a charter school constitutes full and complete compliance by the public body with the corresponding provisions of Sections 52-4-201 and 52-4-202.

Amended by Chapter 363, 2014 General Session

52-4-210. Electronic message transmissions.

Nothing in this chapter shall be construed to restrict a member of a public body from transmitting an electronic message to other members of the public body at a time when the public body is not convened in an open meeting.

Enacted by Chapter 25, 2011 General Session

52-4-301. Disruption of meetings.

This chapter does not prohibit the removal of any person from a meeting, if the person willfully disrupts the meeting to the extent that orderly conduct is seriously compromised.

Enacted by Chapter 14, 2006 General Session

52-4-302. Suit to void final action -- Limitation -- Exceptions.

(1) (a) Any final action taken in violation of Section 52-4-201, 52-4-202, 52-4-207, or 52-4-209 is voidable by a court of competent jurisdiction.

(b) A court may not void a final action taken by a public body for failure to comply with the posting written notice requirements under Subsection 52-4-202(3)(a)(i)(B) if:

(i) the posting is made for a meeting that is held before April 1, 2009; or

(ii) (A) the public body otherwise complies with the provisions of Section 52-4-202; and

(B) the failure was a result of unforeseen Internet hosting or communication technology failure.

(2) Except as provided under Subsection (3), a suit to void final action shall be commenced within 90 days after the date of the action.

(3) A suit to void final action concerning the issuance of bonds, notes, or other evidences of indebtedness shall be commenced within 30 days after the date of the action.

Amended by Chapter 403, 2012 General Session

52-4-303. Enforcement of chapter -- Suit to compel compliance.

(1) The attorney general and county attorneys of the state shall enforce this chapter.

(2) The attorney general shall, on at least a yearly basis, provide notice to all public bodies that are subject to this chapter of any material changes to the requirements for the conduct of meetings under this chapter.

(3) A person denied any right under this chapter may commence suit in a court of competent jurisdiction to:

(a) compel compliance with or enjoin violations of this chapter; or

(b) determine the chapter's applicability to discussions or decisions of a public body.

(4) The court may award reasonable attorney fees and court costs to a successful plaintiff.

Renumbered and Amended by Chapter 14, 2006 General Session

Amended by Chapter 263, 2006 General Session

52-4-304. Action challenging closed meeting.

(1) Notwithstanding the procedure established under Subsection 63G-2-202(7), in any action brought under the authority of this chapter to challenge the legality of a closed meeting held by a public body, the court shall:

(a) review the recording or written minutes of the closed meeting in camera; and

(b) decide the legality of the closed meeting.

(2) (a) If the judge determines that the public body did not violate Section 52-4-204, 52-4-205, or 52-4-206 regarding closed meetings, the judge shall dismiss the case without disclosing or revealing any information from the recording or minutes of the closed meeting.

(b) If the judge determines that the public body violated Section 52-4-204, 52-4-205, or 52-4-206 regarding closed meetings, the judge shall publicly disclose or reveal from the recording or minutes of the closed meeting all information about the portion of the meeting that was illegally closed.

Amended by Chapter 382, 2008 General Session

52-4-305. Criminal penalty for closed meeting violation.

In addition to any other penalty under this chapter, a member of a public body who knowingly or intentionally violates or who knowingly or intentionally abets or advises a violation of any of the closed meeting provisions of this chapter is guilty of a class B misdemeanor.

Enacted by Chapter 263, 2006 General Session

52-6-101. Title.

This chapter is known as the "Reimbursement of Legal Fees and Costs to Officers and Employees Act."

Enacted by Chapter 382, 2008 General Session

52-6-102. Definitions.

As used in this act:

(1) "Officer or employee" means any individual who at the time of an event giving rise to a claim under this act is or was elected or appointed to or employed by a public entity, whether or not compensated, but does not include an independent contractor.

(2) "Public entity" means the state or any political subdivision of it or any office, department, division, board, agency, commission, council, authority, institution, hospital, school, college, university, or other instrumentality of the state or any such political subdivision.

Renumbered and Amended by Chapter 382, 2008 General Session

52-6-201. Indictment or information against officer or employee -- Reimbursement of attorney fees and court costs incurred in defense.

(1) If a state grand jury indicts, or if an information is filed against, an officer or employee, in connection with or arising out of any act or omission of that officer or employee during the performance of the officer or employee's duties, within the scope of the officer or employee's employment, or under color of the officer or employee's authority, and that indictment or information is quashed or dismissed or results in a judgment of acquittal, unless the indictment or information is quashed or dismissed upon application or motion of the prosecuting attorney, that officer or employee shall be entitled to recover reasonable attorney fees and court costs necessarily incurred in the defense of that indictment or information from the public entity, unless the officer or employee is found guilty of substantially the same misconduct that formed the basis for

the indictment or information.

(2) If the officer or employee is acquitted of some of the charges or counts, or portions of the indictment or information are quashed or dismissed, that officer or employee shall be entitled to recover from the public entity reasonable attorney fees and court costs necessarily incurred in the defense of those charges, counts, or portions of the indictment or information that were quashed, dismissed, or resulted in a judgment of acquittal, unless the misconduct covered by those charges, counts, or portions of the indictment or information that were quashed, dismissed, or resulted in a judgment of acquittal is substantially the same misconduct that formed the basis for charges, counts, or portions of the indictment or information of which the officer or employee was found guilty.

(3) An officer or employee who recovers under this section shall also be entitled to recover reasonable attorney fees and costs necessarily incurred by the officer or employee in recovering the attorney fees and costs allowed under this section, including attorney fees and costs incurred on appeal.

(4) Notwithstanding any other provision of this section, an officer or employee may not recover for the costs incurred in defense of any charge, count, or portion of the indictment or information that is quashed or dismissed upon application or motion of the prosecuting attorney.

Renumbered and Amended by Chapter 382, 2008 General Session

52-6-202. Payment of reimbursement of attorney fees and court costs.

(1) A request for reimbursement of attorney fees and court costs shall be filed in the manner provided in Sections 63G-7-902 and 63G-7-903.

(2) (a) Any reimbursement of attorney fees and court costs filed on behalf of an officer or employee of the state shall be paid from funds appropriated to the department or division that employed the officer or employee at the time of the act or omission that gave rise to the indictment or information.

(b) If those funds are unavailable, the reimbursement shall be paid from the General Fund upon approval by the Board of Examiners and legislative appropriation.

Renumbered and Amended by Chapter 382, 2008 General Session

52-7-101. Title.

This chapter is known as the "Public Officers' Attorney Fees Act."

Enacted by Chapter 382, 2008 General Session

52-7-102. "Public officer" defined.

As used in this chapter:

"Public officer" means a member of the Utah State Senate, a member of the Utah State House of Representatives, the governor, lieutenant governor, state auditor, state treasurer, attorney general, or any justice or judge of a court of record.

Renumbered and Amended by Chapter 382, 2008 General Session

52-7-201. Reimbursement of attorney fees and court costs in Article V lawsuits.

If any public officer is named as a defendant in a civil suit that alleges a violation of Article V of the Utah Constitution, and that lawsuit is dismissed or results in a judgment in favor of the defendant, the public officer may, by complying with the requirements and procedures of this chapter, submit a claim to the state for reimbursement of the defendant's reasonable attorney fees and court costs necessarily incurred in the defense of that civil suit.

Renumbered and Amended by Chapter 382, 2008 General Session

52-7-202. Procedure for submitting claim -- Representation of certain public officers by named counsel -- Certain claims barred.

(1) From and after July 1, 1987, within 30 days after a public officer is served with a copy of the complaint, a public officer named as a defendant in a civil suit that alleges a violation of Article V of the Utah Constitution shall provide the Legislative Management Committee and the legislative general counsel with the following information:

- (a) a brief summary of the claims against him;
- (b) the name of the attorney or law firm that will represent him;
- (c) the estimated hourly fee that the attorney or law firm will charge for representing the public officer; and
- (d) an estimate of the hours that the attorney projects are necessary to resolve the lawsuit.

(2) (a) Unless prohibited by the rules governing the conduct of attorneys adopted by the Utah Supreme Court under the authority of Article VIII, Sec. 4 of the Utah Constitution, the Office of the Attorney General, the Office of Legislative Research and General Counsel, or the general counsel for the judicial branch shall represent a public officer named as a defendant in a civil suit that alleges a violation of Article V of the Utah Constitution if the Utah Constitution, statutes, or rules require that such representation be provided.

(b) If a public officer is represented by the Office of the Attorney General, the Office of Legislative Research and General Counsel, or the general counsel of the judicial branch under Subsection (2)(a), the public officer may not present a claim for attorney fees or court costs under this chapter.

Renumbered and Amended by Chapter 382, 2008 General Session

52-7-203. No review by Board of Examiners.

The Board of Examiners may not review any claims submitted under the authority of this chapter.

Renumbered and Amended by Chapter 382, 2008 General Session

52-7-204. Claim and bill given to legislative fiscal analyst and Office of Legislative Research and General Counsel -- Independent review available --

Private sources of funds to be considered -- Power of Legislature to adjust or refuse claim.

(1) A public officer who meets the requirements of this chapter shall submit the public officer's claim for payment of attorney fees and court costs, and a copy of the bills that the public officer received from the attorney who represented him, to both the Office of the Legislative Fiscal Analyst and the Office of Legislative Research and General Counsel.

(2) Upon receipt of a claim from the public officer, the legislative fiscal analyst or the legislative general counsel may, at the direction of the Legislative Management Committee, submit the claim for attorney fees to an independent entity to review the attorney fees and to recommend an appropriate fee.

(3) In considering whether or not to pay the claim, the Legislature may consider whether or not there are other sources, including private sources, to pay the claim.

(4) The Legislature may pay the claim in full, adjust the claim, or refuse to pay the claim.

Renumbered and Amended by Chapter 382, 2008 General Session

52-7-301. Retrospective application of chapter.

This chapter applies to any claim arising prior to the effective date of this chapter if that claim is filed with the Legislature within two years after the lawsuit was filed.

Renumbered and Amended by Chapter 382, 2008 General Session

52-8-101. Title.

This chapter is known as "Reports and Notices."

Renumbered and Amended by Chapter 382, 2008 General Session

52-8-102. Definitions.

As used in this chapter:

(1) "Attribution" means to be responsible for the truth, correctness, and accuracy of a report.

(2) "Chief executive officer" means:

(a) the governor, for the state;

(b) the chair of the county commission or the county executive, for a county; and

(c) the mayor, for a municipality, or if governed under a council-manager form of government, the chair of the council.

(3) "Government entity" includes the state, its agencies and institutions, each county, municipality, school district, local district, and special service district in Utah.

(4) "Promotional literature" means reports whose primary or secondary purpose is to provide nonresidents with information about the government entity that produced the report.

(5) (a) "Report" means each account, statement, record of proceedings, summary of activities, and other written or printed document required by statute that is prepared or produced by a government entity that is distributed to the public.

(b) "Report" does not mean written or printed documents whose primary purpose is to provide biographical information about government officials.

Renumbered and Amended by Chapter 382, 2008 General Session

52-8-201. Prohibition.

(1) Except as provided in Subsection (2), a government entity may not include, as part of any report, the photograph or likeness of any elected official.

(2) A report may contain the photograph or likeness of the chief executive officer of a government entity if the report is promotional literature.

Renumbered and Amended by Chapter 382, 2008 General Session

52-8-202. Penalties.

If an elected official's photograph or likeness appears on any report in violation of this section that was prepared under the authority or at the direction of the elected official, that elected official is personally liable for the cost of preparing and distributing the report.

Renumbered and Amended by Chapter 382, 2008 General Session